

1-1 By: Duncan S.B. No. 1475
1-2 (In the Senate - Filed March 7, 2013; March 18, 2013, read
1-3 first time and referred to Committee on Criminal Justice;
1-4 April 23, 2013, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 6, Nays 0; April 23, 2013,
1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	Whitmire	X		
1-10	Huffman	X		
1-11	Carona	X		
1-12	Hinojosa		X	
1-13	Patrick	X		
1-14	Rodriguez	X		
1-15	Schwertner	X		

1-16 COMMITTEE SUBSTITUTE FOR S.B. No. 1475 By: Huffman

1-17 A BILL TO BE ENTITLED
1-18 AN ACT

1-19 relating to a jail-based restoration of competency pilot program.
1-20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
1-21 SECTION 1. Article 46B.073, Code of Criminal Procedure, is
1-22 amended by adding Subsection (e) to read as follows:
1-23 (e) Notwithstanding Subsections (b), (c), and (d) and
1-24 notwithstanding the contents of the applicable order of commitment,
1-25 in a county in which the department operates a jail-based
1-26 restoration of competency pilot program under Article 46B.090, a
1-27 defendant for whom an order is issued under this article committing
1-28 the defendant to a mental health facility or residential care
1-29 facility shall be provided competency restoration services at the
1-30 jail under the pilot program if the service provider at the jail
1-31 determines the defendant will immediately begin to receive
1-32 services. If the service provider at the jail determines the
1-33 defendant will not immediately begin to receive competency
1-34 restoration services, the defendant shall be transferred to the
1-35 appropriate mental health facility or residential care facility as
1-36 provided by the court order. This subsection expires September 1,
1-37 2017.
1-38 SECTION 2. Subchapter D, Chapter 46B, Code of Criminal
1-39 Procedure, is amended by adding Article 46B.090 to read as follows:
1-40 Art. 46B.090. JAIL-BASED RESTORATION OF COMPETENCY PILOT
1-41 PROGRAM. (a) If the legislature appropriates to the department
1-42 the funding necessary for the department to operate a jail-based
1-43 restoration of competency pilot program as described by this
1-44 article, the department shall develop and implement the pilot
1-45 program in one or two counties in this state that choose to
1-46 participate in the pilot program. In developing the pilot program,
1-47 the department shall coordinate and allow for input from each
1-48 participating county.
1-49 (b) The department shall contract with a provider of
1-50 jail-based competency restoration services to provide services
1-51 under the pilot program if the department develops a pilot program
1-52 under this article.
1-53 (c) Not later than November 1, 2013, the commissioner of the
1-54 department, in consultation with a stakeholder workgroup
1-55 established by the department as provided by Subsection (d), shall
1-56 adopt rules as necessary to implement the pilot program. In
1-57 adopting rules under this article, the commissioner shall specify
1-58 the types of information the department must collect during the
1-59 operation of the pilot program for use in evaluating the outcome of
1-60 the pilot program.

(d) The commissioner of the department shall establish a stakeholder workgroup to participate in developing and establishing rules for the pilot program. The stakeholder workgroup must be composed of:

- (1) one member who is a sheriff;
- (2) one member who represents a local mental health authority;
- (3) one member who is a county commissioner, county judge, or elected county officer;
- (4) one member who is a district attorney or county attorney with criminal jurisdiction;
- (5) one member who is a defense attorney;
- (6) one member who is a judge of a district criminal court or county criminal court;
- (7) two members who are mental health advocates; and
- (8) any other member the department considers appropriate to appoint to the stakeholder workgroup.

(e) This subsection and Subsection (d) expire not later than the 30th day after the date rules are adopted under Subsection (c).

(f) To contract with the department under Subsection (b), a provider of jail-based competency restoration services must demonstrate to the department that:

- (1) the provider:
 - (A) has previously provided jail-based competency restoration services for one or more years; or
 - (B) is a local mental health authority that has previously provided competency restoration services;
- (2) the provider's jail-based competency restoration program:

(A) uses a multidisciplinary treatment team to provide clinical treatment that is:

- (i) directed toward the specific objective of restoring the defendant's competency to stand trial; and
- (ii) similar to the clinical treatment provided as part of a competency restoration program at an inpatient mental health facility;

(B) employs or contracts for the services of at least one psychiatrist;

(C) assigns staff members to defendants participating in the program at an average ratio not lower than 3.7 to 1; and

(D) provides weekly treatment hours commensurate to the treatment hours provided as part of a competency restoration program at an inpatient mental health facility;

(3) the provider is certified by a nationwide nonprofit organization that accredits health care organizations and programs, such as the Joint Commission on Health Care Staffing Services; and

(4) the provider has a demonstrated history of successful jail-based restoration of competency outcomes.

(g) A contract under Subsection (b) must require the designated provider to collect and submit to the department the information specified by rules adopted under Subsection (c).

(h) The designated provider shall enter into a contract with the participating county or counties. The contract must require the participating county or counties to:

- (1) ensure the safety of defendants who participate in the jail-based restoration of competency pilot program;
- (2) designate a separate space in the jail for the provider to conduct the pilot program;
- (3) provide the same basic care to the participants as is provided to other inmates of a jail; and
- (4) supply clinically appropriate psychoactive medications to the mental health service provider for purposes of administering court-ordered medication to the participants in accordance with Article 46B.086 of this code and Section 574.106, Health and Safety Code.

(i) The psychiatrist for the provider shall conduct at least two full psychiatric evaluations of the defendant during the period

the defendant receives competency restoration services in the jail. The psychiatrist must conduct one evaluation not later than the 21st day and one evaluation not later than the 55th day after the date the defendant begins to participate in the pilot program. The psychiatrist shall submit to the court a report concerning each evaluation required under this subsection.

(j) If at any time during a defendant's participation in the jail-based restoration of competency pilot program the psychiatrist for the provider determines that the defendant has attained competency to stand trial:

(1) the psychiatrist for the provider shall promptly issue and send to the court a report demonstrating that fact; and

(2) the court shall consider that report as the report of an expert stating an opinion that the defendant has been restored to competency for purposes of Article 46B.0755(a) or (b).

(k) If at any time during a defendant's participation in the jail-based restoration of competency pilot program the psychiatrist for the provider determines that the defendant's competency to stand trial is unlikely to be restored in the foreseeable future:

(1) the psychiatrist for the provider shall promptly issue and send to the court a report demonstrating that fact; and

(2) the court shall:

(A) proceed under Subchapter E or F and order the transfer of the defendant, without unnecessary delay, to the first available facility that is appropriate for that defendant, as provided under Subchapter E or F, as applicable; or

(B) release the defendant on bail as permitted under Chapter 17.

(l) If the psychiatrist for the provider determines that a defendant ordered to participate in the pilot program has not been restored to competency by the end of the 60th day after the date the defendant began to participate in the pilot program:

(1) for a defendant charged with a felony, the defendant shall be transferred, without unnecessary delay and for the remainder of the period prescribed by Article 46B.073(b), to the first available facility that is appropriate for that defendant as provided by Article 46B.073(c) or (d); and

(2) for a defendant charged with a misdemeanor, the court may:

(A) order a single extension under Article 46B.080 and the transfer of the defendant without unnecessary delay to the appropriate mental health facility or residential care facility as provided by Article 46B.073(d) for the remainder of the period under the extension;

(B) proceed under Subchapter E or F;

(C) release the defendant on bail as permitted under Chapter 17; or

(D) dismiss the charges in accordance with Article 46B.010.

(m) Unless otherwise provided by this article, the provisions of this chapter, including the maximum periods prescribed by Article 46B.0095, apply to a defendant receiving competency restoration services under the pilot program in the same manner as those provisions apply to any other defendant who is subject to proceedings under this chapter.

(n) If the department develops and implements a jail-based restoration of competency pilot program under this article, not later than December 1, 2016, the commissioner of the department shall submit a report concerning the pilot program to the presiding officers of the standing committees of the senate and house of representatives having primary jurisdiction over health and human services issues and over criminal justice issues. The report must include the information collected by the department during the pilot program and the commissioner's evaluation of the outcome of the program as of the date the report is submitted.

(o) This article expires September 1, 2017.

SECTION 3. The change in law made by this Act applies only to a defendant against whom proceedings have not been initiated

4-1 under Chapter 46B, Code of Criminal Procedure, as amended by this
4-2 Act, before the effective date of this Act. The determination of
4-3 incompetency for a defendant against whom proceedings have been
4-4 initiated under Chapter 46B, Code of Criminal Procedure, before the
4-5 effective date of this Act is covered by the law in effect when the
4-6 proceedings were initiated, and the former law is continued in
4-7 effect for that purpose.

4-8 SECTION 4. This Act takes effect September 1, 2013.

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